

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket NO. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

**COMMENTS ON FURTHER INQUIRY – INTERCARRIER COMPENSATION  
AND UNIVERSAL SERVICE TRANSFORMATION PROCEEDING**

**I. INTRODUCTION**

The Vermont Public Service Board (“VPSB”), respectfully submits these comments in response to the Federal Communications Commission’s (“Commission”) Report and Order and Further Notice of Proposed Rulemaking, released on November 18, 2011, in the above-captioned dockets.

**II. REASONABLY COMPARABILITY OF SERVICE**

At ¶¶ 1018 through 1027, the Commission raises questions concerning the determination of reasonable comparability of voice and broadband services. The Commission asks whether

fixed and mobile voice services should have separate benchmarks for purposes of reasonable comparability. For several reasons, the answer should be yes. The Commission has traditionally determined the comparability based upon a comparison of costs, not actual rates. The existing voice model does not calculate rates. However, little information exists on the costs of wireless service, so this comparison would be difficult if not impossible to make.

A rate-based comparison would also be challenging. In part, this is because there is no one rate that can be compared. Different companies and states have different rate designs and calling areas. To compare rates themselves, it would be necessary to normalize these factors. These considerations helped drive the Commission to adopt cost in the first instance. It would be more complicated in comparing wireless services, especially since most wireless plans involve packages of what would be considered toll minutes. Nor are wireless and fixed services comparable. More consumers are finding the former to be an adequate substitute for the latter. But most consumers still use both, demonstrating that they are generally considered complimentary, not alternative services. It is also difficult to equate the two when wireless doesn't necessarily work. Based upon recent studies, between 9 and 16% of Vermont residents have no access to wireless service, and that figure is not based upon actual, on-the-ground experience. The same considerations apply to collection of data on wireless and fixed broadband services.

The Commission seeks comment on whether the survey should examine actual speed or advertised speed or the closest available offering in urban areas. The VPSB strongly believes that any examination of comparability must be based upon actual measurement and encompass both rural and urban areas. Any other approach is likely to overstate the capacity available in rural areas. For example, DSL service degrades with distance. In compact areas such as Washington, DC, this may have little impact. However, rural areas tend to have longer loops. Many customers in Vermont still lack DSL service because they are more than 18,000 feet from a fiber-fed remote terminal or central office. Inside 18,000 feet, the service performance varies with distance. DSL service provided by Vermont companies cannot meet the Commission's 1 Mbps upstream threshold beyond 3800-4000 feet. Cable-based broadband systems suffer from degradation based upon the number of upstream users. Longer cable runs, as exist in rural areas, increases the degree of degradation and has caused numerous customers to switch to DSL services that are slower on average but faster during times of peak use.

Any system that is based upon advertised speeds or estimates will fail to take into account the actual performance. For these reasons, the use of actual measurement is necessary to demonstrate reasonable comparability.

The Commission also asks for comments on how to define the reasonable rate range for broadband services and solicits comments about the use of the two-standard-deviation approach that it presently uses for voice services. The VPSB has previously explained in CC Docket No. 96-45 why the two-standard-deviation approach has fundamental flaws.<sup>1</sup> Rather than repeating that analysis here, we incorporate those comments by reference.

The fundamental flaw in setting the comparability rate benchmark at two standard deviations above the average urban rate is that it is self-forgiving. Any comparability standard that is pegged at two standard deviations above the average is likely to conclude that the overwhelming majority of rates are comparable simply as a matter of the manner in which standard deviations are calculated. The Commission's comparability yardstick thus ignores any objective meaning of what constitutes "reasonably comparable rates" by simply assuming that most rates meet the standard. Instead, the methodology assumes that few rates will fail to be reasonably comparable, which avoids any establishment of objective criteria. Moreover, as a matter of mathematics, if there is a wide disparity of rates, then a wider array of rates would be considered reasonably comparable. There is no logical basis for such an approach.

The comparability standard can also shift over time. In any distribution of data, the standard deviation increases when the data points spread out and become more dissimilar over time. In this case, if some low urban rates were to decline or some high urban rates were to increase, the standard deviation of the rate distribution would increase, and the benchmark would increase by twice the amount of the change in standard deviation. As a result, a given rural rate could very well be found non-comparable in one year and comparable in the next year. This makes little sense and should be rejected.

There is also no scientific or policy reason to believe that 2.00 standard deviations is a better or more precise figure than 1.5 standard deviations, or 1.0 for that matter. In other contexts the Commission has made other choices. For example, the Commission has evaluated physical collocation prices by comparing the carrier's direct cost against a standard set one standard deviation above the industry-wide average. The Commission has not explained why it

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<sup>1</sup> See Comments of MPUC, et al, WC Docket No. 05-337, CC Docket No. 96-45, dated January 28, 2010.

is appropriate here to select a standard that makes it so difficult to show that rural conditions are "reasonably comparable" to urban conditions.

In lieu of that approach, the Commission should adopt a rate comparison allowing a rate differential of no more than 125% from the average urban rate for the same (not a different) service. The VPSB has recommended such a basis for comparison in the context of voice service. The basis for this benchmark (which is probably high) is simple common sense. At what point would an informed consumer consider the two prices to be reasonably comparable; it is hard to envision any consumer, when comparing two services to consider a price of \$50 to be comparable to \$40 for the same product.

In terms of comparability of speeds, the Commission should focus both on actual measured speeds but also on capabilities. Does the typical consumer with 10 Mbps have opportunities greater than one with 4 Mbps? Since the former allows streaming of high definition video while the latter may not, it is not reasonable to consider the two services to be comparable.

### **III. ELIMINATING SUPPORT for AREAS with an UNSUBSIDIZED COMPETITOR**

Beginning at ¶ 1061, the Commission seeks comments on the proposed methodology for determining the extent of overlap by unsubsidized competitors and how to adjust support where overlap is less than 100%. At the outset, the VPSB wants to make clear that it supports the Commission's conclusion that support should not be extended to serve locations where an unsubsidized landline competitor has already deployed service and offered service. The Board's concern, however, is that the Commission adopt a methodology that adjusts support at a granular level, not based upon existing broadband mapping data. In order to ensure that support is not reduced inappropriately, the Commission needs to base any adjustment based upon location-specific data (each E911 address).

Existing mapping data through the broadband mapping initiative provides a very inaccurate picture of broadband availability and speeds. Census blocks with only a single

broadband connection are considered served, even though most customers have no access to those services. The VPSB highlighted this problem in comments filed in this proceeding in August. Speeds are also based upon the best available within the census block. Closer examination of census blocks in Vermont shows that while a few of these actually have high levels of availability, many have a very small proportion of residents with broadband. And if the measurement threshold is 4/1 as the Commission plans to use, this number would dwindle materially.

The Commission has an obligation to provide universal service support to meet the reasonable comparability standard set out in Section 254(b)(3) of the Act. Reducing support without considering actual availability of an unsubsidized competitor would fail to meet this standard.

The Commission also seeks comment on the role of the states. States have already worked to develop the broadband map. The Commission should consider providing, at a minimum, each state an opportunity to comment on any preliminary determination that would reduce support based upon the presence of an unsubsidized wireline competitor. To facilitate this analysis, the Commission should explicitly require cable providers to supply states with granular data (i.e., to individual service locations) upon request.

#### **IV. ETC DESIGNATION**

Starting in ¶ 1097, the Commission raises questions about forbearance from existing ETC requirements, such as the mandate that an ETC offer service throughout their service territory. The Commission also questions whether such an approach would appropriately balance state and federal roles. The answer is no. The VPSB recommends retention of the

existing balance without further forbearance. States are well-equipped to examine the service that a provider seeking support from the Connect America Fund will offer. They have successfully applied existing requirements. Increased forbearance, particularly of matters such as the extent of service may simply create added opportunities for alternative providers to obtain support to cherry-pick customers, leaving more pockets without service. Not only does this increase the potential for higher total charges to the Connect America Fund, it also may make it more difficult to serve all areas.

Respectfully submitted,

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January 18, 2012